

### **REMARKS**

This Amendment is responsive to the Office Action identified above, and is responsive in any other manner indicated below.

### **PENDING CLAIMS**

Claims 1-7 were pending, under consideration and subjected to examination in the Office Action. Unrelated to any rejection, appropriate claims have been amended and/or added in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is presently interested. At entry of this paper, Claims 1-12 will be pending for further consideration and examination in the application.

### **REJECTION UNDER 35 USC §103 - OBVIATED VIA CLAIM AMENDMENT**

The 35 USC §103 rejection of Claims 1-7 is respectfully traversed. Such rejection has been rendered obsolete by the present clarifying amendments to Applicant's claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated herein by reference. Further, all Office Action statements regarding the prior art rejections are

respectfully traversed. As additional arguments, Applicant respectfully submits the following.

In order to properly support a §103 obviousness-type rejection, the reference not only must suggest the claimed features, but also must contain the motivation for modifying the art to arrive at an approximation of the claimed features. However, the cited art does not adequately support a §103 obviousness-type rejection because it does not, at minimum, disclose (or suggest) the following limitations of Applicant's clarified claims.

More particularly, Applicant's disclosed and claimed invention is directed to arrangements allowing determination (based upon input data and historical (e.g., average) data) of a plurality of available maintenance contractual plans for elevators, and customer selection of a desired maintenance contractual plan. That is, data is obtained/entered regarding a customer's elevator, load predictions are made based upon average data for similar elevators/locations, a plurality of maintenance contractual plans are determined/offered, and the customer then selects a desired contractual plan. Claims 6 and 7, and added Claims 8-12, further specify that such arrangements may be usable via internet access.

Regarding distinguishing claim features, independent Claim 1, for example, contains the features/limitations: load predicting means for calculating a predicted load of the elevator from a specification of the elevator and a condition of a building in which said elevator is installed, said elevator being an object of the maintenance, said condition of the building including at least one of a location of said building and a floor area and height of said building; maintenance plan setup means for setting up

a plurality of maintenance contractual plans each including a check-up interval of component parts of said elevator and a clean-up interval; and, maintenance plan selecting means for allowing a user to select a desired maintenance contractual plan from said plurality of maintenance contractual plans. Other claims have such feature/limitations by dependency, or have similar or analogous features/limitations.

Sandifer (US 5,987,474 A), in contrast, is directed to a computer-aided maintenance and repair information system for equipment. That is, Sandifer's arrangement simply allows a user to access repair manuals/information, and allows a user to store information on repairs made (*i.e.*, a repair log). Nowhere does Sandifer's disclosure mention determination or selection of a maintenance contractual plan, or disclose mention of elevators. Even if Sandifer's disclosure was applied to the world of elevators, such still would not disclose or suggest determination or selection of a maintenance contractual plan.

Courts have held that an Examiner cannot make substitutions at will to references in a hindsight attempt to arrive at Applicant's invention. The Federal Circuit has stated, "[t]he mere fact that the prior art may be modified in a manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." *In re Fritch*, 972 F.2d 1260, 1266 n.14 (Fed. Cir. 1992), citing *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). Accordingly, even assuming *arguendo* that Sandifer could be supplemented regarding determination or selection of a maintenance contractual plan, Sandifer itself does not suggest such modification.

In addition to the foregoing, the following additional remarks from Applicant's foreign representative also are submitted in support of traversal of the rejection and patentability of Applicant's claims.

Regarding differences between the invention and the cited art, Sandifer shows a system which allows efficient access to various documents such as maintenance manuals, repair manuals, regulatory requirements, etc., published by various publishers including manufactures of to-be-maintained-or-repaired equipment (aircraft in particular) and governmental agencies. The system further has a data-inputting tool for creating a record of a maintenance (logbook) which is necessary when conducting maintenance operations. Thus, Sandifer's system has the functionality of retrieving and displaying information that has been recorded on the system, and information inputted by the user.

Unlike the present invention, Sandifer's system has no functionality of generating secondary information from those information by conducting calculation and processing on such information, the secondary information, for example, being a maintenance plan which is tailored to the operational condition of a to-be-maintained/repared apparatus.

In the Office Action, comments contend that the maintenance plans set up means is disclosed by table in Cols. 78-79 and 81-84 under the heading "compliance" of Sandifer. Applicant respectfully disagrees. The information indicated by the noted portion of the cited art is a record of maintenance inputted by the user, not information calculated/processed by the system, nor a menu which

would be displayed for allowing the user to select one of a plurality of maintenance plans.

In contrast, the present invention is distinguished by features/limitations where: a load predicting means is provided for predicting the load (such as running distance per month, door open/close times, etc.) on the elevator based on the specification of the elevator and the condition of the building in which the elevator is installed so as to set up a plurality of maintenance plans for checking-up (inspection) intervals of components parts of the elevator, cleaning intervals, etc., from the predicted load; and a maintenance plan selection means is provided for allowing the user to select a suitable maintenance plan from among the maintenance plans. See illustration of maintenance plan computation flow attached herewith. Thus, the present invention is not obvious over the cited art.

As a result of all of the foregoing, it is respectfully submitted that the applied art (taken alone and in the Office Action combinations) would not support a §103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such §103 rejection, and express written allowance of all of the §103 rejected claims, are respectfully requested.

#### **EXAMINER INVITED TO TELEPHONE**

The Examiner is invited to telephone the undersigned at the local D.C. area number of 703-312-6600, to discuss an Examiner's Amendments or other suggested action for accelerating prosecution and moving the present application to allowance.

### **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, *i.e.*, Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested.

This Amendment is being submitted within the shortened statutory period for response set by the Office Action mailed 29 June 2004, and therefore, no Petition is necessary for entry and consideration of this paper. To whatever other extent is actually required and appropriate, Applicant respectfully petitions for an extension of

HAMADA, SN 09/801,845  
Amdt. dated 29 September 2004  
Reply to Office Action of 29 June 2004

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time under 37 CFR §1.136. The attached Form PTO-2038 authorizes payment of the requisite additional claim fee. Please charge any actual deficiency in fees due to ATSK Deposit Account No. 01-2135 (as Case No. 500.39831X00).

Respectfully submitted,



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Attachments:

Form PTO-2038 (Fee Code 1201)  
Illustration of Maintenance  
Plan Computation Flow